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CHAPTER VIII.

INSPECTION OF DOCUMENTS.

35. *Foreman to allow subscriber to examine chit records.*—Every foreman shall, on payment of such fee not exceeding five rupees as may be specified in the chit agreement, allow non-prized and unpaid prized subscribers all reasonable facilities on all days of drawing of chits or on such days and within such hours as may be provided for in the chit agreement for the inspection of security bonds and documents, receipts and other records taken from the prized subscribers or furnished by the foreman himself in his capacity as a subscriber and all chit records including books of account and pass books, the balance-sheets and profit and loss accounts and such other records as may show the actual financial position of the chit scheme.

36. *Preservation of chit records by foreman.*—All the records pertaining to a chit shall be preserved intact by the foreman and kept for a period of twelve years from the date of the termination of the chit.

37. *Inspection of chit books and records*—(1) (*a*) The Registrar; or

(*b*) any officer authorized by the Director of chits in this behalf, may inspect the chit books and all records after giving due notice in writing to the foreman.

(2) Every foreman shall be bound to produce the chit books and records before the Registrar or the officer authorized under sub-section (1) at the time and place mentioned in the notice and shall furnish such information to him as he may require:

Provided that such inspection may be made at the premises of the foreman if he pays in advance such fees as may be prescribed for the inspection:

Provided further that if the foreman is a banking company as defined in the Banking Companies Act, 1949 (Central Act X of 1949), such inspection shall be made only at the premises of the company and only on a working day and such foreman shall pay such fees as may be prescribed for the inspection.

CHAPTER IX.

WINDING UP OF CHITS.

38. *When chit may be wound up.*—A chit registered in the Presidency-town may be wound up by the Madras City Civil Court and a chit registered elsewhere may be wound up by the District Court having jurisdiction over the place where the chit has been registered—

(*a*) if the chit has terminated under clause (*c*) of section 31, or

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(b) if the foreman fails to give the security specified in section 12 or if he commits any such acts in respect thereto as are calculated to impair materially the nature of the security or the value thereof, or

(c) if he fails to deposit the chit moneys in accordance with the provisions of this Act, or

(d) if it is proved to the satisfaction of the court that the foreman is unable to pay the amounts due to the subscribers, or

(e) if execution or other process issued on a decree or order of any court in favour of any subscriber in respect of amounts due to him from the chit is returned unsatisfied in whole or in part, or

(f) if it is proved that there has been fraud or collusion on the part of the foreman in the matter of taking securities from prized subscribers, or

(g) if the foreman has appropriated the prize amount in his capacity as a subscriber without furnishing sufficient security for future subscriptions, or

(h) if it is just and equitable that the chit should be wound up.

Explanation.—For the purposes of clause (d), in determining whether the foreman is unable to pay the amounts due to the subscribers, the court shall take into account his contingent and prospective liabilities in respect of the chit :

Provided that a chit conducted by a company within the meaning of the Companies Act, 1956 (Central Act I of 1956), shall be wound up only by the court having jurisdiction under that Act.

39. *Winding up application.*—The application to the court for the winding up of a chit shall be by a petition presented by any non-prized subscriber or unpaid prized subscriber or by the Registrar, signed and verified in the manner prescribed by the Code of Civil Procedure, 1908 (Central Act V of 1908), and shall contain such particulars as may be prescribed :

Provided that no application for the winding up of a chit under clauses (d) and (h) of section 38 shall lie unless such petition is presented—

(a) by those non-prized subscribers and those unpaid prized subscribers whose subscriptions to the chit amount in the aggregate to at least twenty-five per cent of the amounts contributed by all the non-prized subscribers and unpaid prized subscribers; or

(b) with the previous sanction of the Government.

Explanation.—For the purposes of the above proviso, a subscriber of a fraction of a ticket shall be deemed to be a subscriber only to the extent of such fraction.

40. *Insolvency or liquidation a bar to winding up proceedings.*—Notwithstanding anything contained in sections 38 and 39, no petition for the winding up a chit shall be entertained by a court

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if proceedings under the law relating to insolvency for the time being in force are pending against the foreman for adjudicating him an insolvent or when the foreman is a company, if proceedings for winding up the company are pending against such company in a court.

41. *Commencement and effect of winding up order.*—An order for the winding up of a chit shall operate in favour of all the subscribers to whom amounts are due from the chit and it shall be deemed to have commenced from the time of the presentation of the application for the winding up.

42. *Injunction order.*—The court may, upon the application of the foreman or of any subscriber to whom amounts are due in respect of the chit at any time after the presentation of the application for the winding up of a chit under this Act and before the making of an order for the appointment of an Interim Receiver or for winding up the chit, restrain further proceedings in any suit or proceeding instituted against the foreman for the realization of amounts due from the chit upon such terms as the court thinks fit.

43. *Powers of court on hearing the application.*—On hearing the application, the court may dismiss it with or without costs or adjourn the hearing conditionally or unconditionally or make an interim order or any other order that it deems fit.

44. *Chit assets to vest in court for distribution.*—On the making of an order for the winding up of a chit, the entire chit assets shall vest in the court for distribution amongst the subscribers to whom amounts are due in respect of the chit.

45. *Suits stayed on winding-up orders.*—When a winding up order has been made by a court, no suit or other legal proceedings shall be continued or commenced against the foreman by a subscriber for the realization of amounts due to him in respect of the chit except with the leave of the court and on such terms as the court may impose.

46. *Copy of winding up order to be filed with the Registrar.*—(1) On the making of a winding up order, it shall be the duty of the petitioner in the winding up proceedings and of the Receiver to file with the Registrar a copy of the order, within one month from the date of the making of the order :

Provided that the Registrar may, upon application in writing by such petitioner or Receiver, allow, in his discretion, further time not exceeding fifteen days for the filing of any such copy.

(2) On the filing of a copy of the winding up order, the Registrar shall make an entry thereof in his books relating to the chit and shall notify in the District Gazette that such an order has been made.

47. *Stay of winding-up proceedings on insolvency of foreman and transfer of insolvency proceedings.*—When during the pendency of the proceedings for the winding up of a chit the foreman is

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adjudicated an insolvent or when the foreman is a company, the company has been ordered to be wound up by the court, the winding up proceedings under this Act shall cease and the distribution of the chit assets shall, subject to the provisions contained in sections 34 and 42, be made by the insolvency court or the court winding up the company, as the case may be. Where insolvency proceedings against the foreman are pending in different courts, the High Court may transfer the proceedings from one court to another as it may deem fit.

48. *Compensation for frivolous or vexatious application*.—(1) When an application presented for winding up a chit is dismissed and the court is satisfied that the application is frivolous or vexatious, the court may award against the applicant such amount, not exceeding five hundred rupees, as it deems reasonable as compensation to the foreman for the expense or injury occasioned to him by the application and the proceedings thereon and such amount may be realized as if the award were a decree.

(2) Compensation under sub-section (1) shall bar any suit for compensation.

49. *Right of appeal*.—The foreman, any subscriber, the Receiver or any other person aggrieved by a decision or order of the court in proceedings for winding up a chit may, within two months from the date of such decision or order, appeal to the High Court.

50. *Limitation*.—(1) Where an order refusing to wind up a chit has been made under this Act, the chit shall be deemed to have been under suspension from the date of the presentation of the application to the date of such order in respect of non-prized subscribers, and notwithstanding anything contained in the chit agreement, no non-prized subscriber who was not a defaulter on the date of the presentation of the application for winding up shall be deemed to be a defaulter on the date of its dismissal.

(2) Where an order refusing to wind up a chit has been made under this Act, in computing the period of limitation prescribed for any suit or other legal proceedings (other than a suit or an application in respect of which the leave of the court has been obtained) which might have been brought or instituted for winding up the chit, the period from the date of the presentation of the application to the date of the order refusing to wind up the chit shall be excluded.

(3) Nothing contained in this Act shall affect the right of the subscriber to proceed by suit or application against the foreman personally for the balance, if any, of the amount due to him after the declaration of the final dividend in proceedings for winding up the chit and in computing the period of limitation prescribed for any such suit or application, the period from the date of the presentation of the application for winding up the chit to the date of the declaration of the final dividend shall be excluded.